

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

IMPLICIT, LLC,

Plaintiff,

v.

NETSCOUT SYSTEMS, INC.,

Defendant.

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CIVIL ACTION NO. 2:18-CV-00053-JRG

ORDER

Before the Court is Plaintiff Implicit, LLC and Defendant NetScout Systems, Inc.’s (collectively, the “Parties”) Agreed Motion for Extension of Time to File Post-Trial Motions (the “Motion”). (Dkt. No. 243.) In the Motion, the Parties request a fourteen (14) day extension to file “any post-trial motions, including any motions for a new trial, motions for judgment as a matter of law, and/or any motion under 35 U.S.C. § 285”. (*Id.* at 1.) However, the time limit for filing a motion for new trial or motion for judgment as a matter of law is mandatory and cannot be extended by a trial court. FED. R. CIV. P. 6(b) (“A court must not extend the time to act under Rules 50(b) and (d), 52(b), 59(b), (d), and (e), and 60(b)"); *see Tarlton v. Exxon*, 688 F.2d 973, 977 (5th Cir. 1982) (“The time limit for filing a new trial motion imposed in Rule 59(b) is mandatory and jurisdictional; it cannot extended by the trial court.”). Accordingly, the Court cannot grant the relief as requested.

Having reviewed the Motion and based on the foregoing, the Court is of the opinion that the Motion should be and hereby is **DENIED**.

So ORDERED and SIGNED this 6th day of January, 2020.



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE